

Stultz, Mark

From: Sally Mann [sally.mann@rstarmail.com]
Sent: Tuesday, December 14, 2010 11:46 AM
To: Sally Mann
Cc: Stultz, Mark; Milt Herd
Subject: Re: Stakeholder Meeting - December 14, 2010

Also, Mr. Herd, I believe the vote on the 100 foot buffer issues was to put it at the END of our discussion, and you may have misunderstood, and put it FIRST for tonight. We have other more pressing issues to vote on, and also, I think it is implicit that if we suggest those exemptions in the 35 foot buffer, we would obviously want to suggest those exemptions in a larger buffer. I honestly believe that the consensus is if we do not get the 35 foot buffer, then we do not want an Ordinance like this.

I think the consensus will be to move onto issues like vesting of existing approved projects, whether we want any RMA, septic pump out --how many years, the IDA and then whether we want as a group to say we do not want to adopt a Ches Bay Ordinance. Then, if we have time, before we consider how we report to the Board, then, we can debate more about the 100 foot buffer.

Thank you again.

On Dec 14, 2010, at 11:22 AM, Sally Mann wrote:

Dear Mr. Stulz and Mr. Herd,

The exemption we discussed in the 35 foot buffer was not just for agriculture (as indicated in the report) with a soil and water conservation plan, but also for rural economy uses. The current draft is limited to agriculture for the 25 foot BMP exclusion. My understanding--according to what Laura Edmonds said in answering a question-- is that agriculture would still get the automatic 25 foot BMP exemption with the 35 foot buffer no matter what, but depending on the plan, could get a smaller buffer (say all grass/ie hay) if approved, and all rural economy uses would be allowed a similar exemption (to zero) if they could get that approved by Soil and Water with their BMPs in place. This is significantly different and more lenient/flexible--targeting buffers only when Soil and Water thinks they are necessary. Vineyards are specifically addressed in the WIP as not needing the same buffers, etc as agriculture. Also, the State WIP calls for grass or forested buffers, whereas our current draft calls only for forested buffers, a much more onerous burden. This was discussed--some farmers grow hay up to the stream. Also, the State WIP calls for fencing over time with a cost share program, not mandatory fencing. So it is much less burdensome than the current draft which has difficult conditions to meet, which may result in mandatory fencing.

As for the grandfathering, we only discussed pending accepted and active plans, not "approved plans." The grandfathering provision we voted on was for accepted and approved plans (this report erroneously says it was accepted and approved plans.) The option we agreed on grandfathered all accepted and active development plans, except rezoning and special exception plans which were only grandfathered if already referred from the Planning Commission to the BoS.

We did not discuss "vesting" of approved projects, which is different from "grandfathering." Vesting applies when there have been significant government approvals, and we never got to what the county would consider "vested."

The County Attorney was asked about IDA's and exemptions under IDAs and he said we had wide latitude to exempt whatever we wanted, as long as the exemption was not arbitrary. He did not comment on buffer width specifically as stated in the report, that we could change the buffer width, but he did say we could adopt

provisions that differed with the Ches Bay Act, as long as they were not more strict than the Ches Bay regulations, which these are not.

My last comment: Section 1222.14(d) (i) does require approval of the County for removal of any tree, and Section 1222.14(d) (iii) merely states that dead or dying trees may be removed, provided that ..."they shall be replaced with other vegetation..." I think it is an error to say that this section allows dead trees to be removed without a plan or approved replanting.

Thank you,

Sally Mann

On Dec 14, 2010, at 10:01 AM, Stultz, Mark wrote:

Dear Stakeholders:

Please find attached to this e-mail, the following documents related to the Stakeholder meeting this evening, December 14, 2010:

- "Agenda for 12-14-10 Stakeholder Meeting"
- "Summary Notes from 12-07-10 Stakeholder Meeting"
- "Summary Notes from 12-09-10 Stakeholder Meeting"
- "Stakeholder Issues Matrix (Revised 12-13-10)"

Please note that the attached documents are drafts prepared by Milt Herd and are subject to comments from the Stakeholders.

I will have hard copies of these documents available at the meeting this evening. We hope to see you there.

Mark
Mark Stultz, AICP, CZA
Deputy Zoning Administrator
Department of Building and Development
Loudoun County, Virginia
703-771-5394 (Direct)
Mark.Stultz@loudoun.gov

<Agenda for 12-14-10 Stakeholder Meeting.pdf><Summary Notes from 12-07-10 Stakeholder Meeting.pdf><Summary Notes from 12-09-10 Stakeholder Meeting.pdf><Stakeholder Issues Matrix (Revised 12-13-10).pdf>

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I am sorry, going too fast, the grandfathering we discussed was for Accepted and Active plans or rezonings and special exceptions that had been forwarded to the BoS from the Planning Commission. The report says accepted and approved plans. The word approved is wrong and should be "active" not approved.
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